

**UNITED STATES DISTRICT COURT  
NORTHERN DISTRICT OF NEW YORK**  
**JEREMY L. TUTORA,**

**Plaintiff,**

**3:19-cv-1221  
(GLS/ML)**

**v.**

**TRISTON CAMPBELL,**

**Defendant.**

**APPEARANCES:**

**OF COUNSEL:**

**FOR THE PLAINTIFF:**

JEREMY L. TUTORA  
*Pro Se*  
163 Schubert Street  
Apartment 1L  
Binghamton, NY 13905

**FOR THE DEFENDANT:**

Smith, Sovik, Kendrick & Sugnet, P.C.      STEVEN W. WILLIAMS, ESQ.  
250 South Clinton Street  
Suite 600  
Syracuse, NY 13202-1252

**Gary L. Sharpe**  
**Senior District Judge**

**ORDER**

The above-captioned matter comes to this court following an Order and Report-Recommendation (R&R) by Magistrate Judge Miroslav Lovric, duly filed May 18, 2021. (Dkt. No. 69.) Following fourteen days from the service thereof, the Clerk has sent the file, including any and all objections filed by the parties herein.

No objections having been filed, and the court having reviewed the R&R for clear error, it is hereby

**ORDERED** that the Order and Report-Recommendation (Dkt. No. 69) is **ADOPTED** in its entirety; and it is further

**ORDERED** that defendant's motion to dismiss (Dkt. No. 51) is **GRANTED**; and it is further

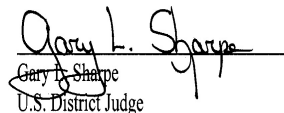
**ORDERED** that plaintiff's complaint (Dkt. No. 1) is **DISMISSED** in its entirety pursuant to Fed. R. Civ. P. 37(b) and Fed. R. Civ. P. 41(b) for failure to prosecute and comply with the court's orders and Local Rules of Practice; and it is further

**ORDERED** that defendant's motion for default judgment as to his counterclaims (Dkt. No. 60) remains pending. Defendant is directed to advise the court of his position with respect to the motion and his counterclaims in light of this Order on or before June 15, 2021; and it is further

**ORDERED** that the Clerk provide a copy of this Order to the parties accordance with the Local Rules of Practice.

**IT IS SO ORDERED.**

June 8, 2021  
Albany, New York

  
Gary L. Sharpe  
U.S. District Judge